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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,385	10/22/2003	Charles G. Hwang	102-539 CIP (P-6048/1)	8673
32752	7590	04/05/2006	EXAMINER	
DAVID W. HIGHET VP & CHIEF IP COUNSEL BECTION DICKINSON AND COMPANY 1 BECTON DRIVE MC 110 FRANKLIN LAKES, NJ 07417-1880			WITCZAK, CATHERINE	
			ART UNIT	PAPER NUMBER
			3767	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/691,385	Applicant(s) HWANG ET AL.	
	Examiner Catherine N. Witczak	Art Unit 3767	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1,2,8,9,11,12,14-16,22-24,28,31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,9,11,12,14-16,22-24,28,31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/3/04; 12/15/03</u> | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/13/2006 has been entered.

### *Claim Objections*

1. Claim 23 is objected to because of the following informalities: it refers to "said cylinder" when cylinder is not previously described. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1, 2, 8, 9, 11, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al (D457,954) as modified by Gates et al (4,006,837).

Claims 1 and 2: Wallace et al disclose in Figure 1 a syringe tip cap comprising a base having an upper and lower surface, and body having a top wall extending from the upper surface, and a shaft extending from the lower surface.

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Wallace et al disclose the claimed invention except for the top wall having an elliptical cross section. Gates et al teach that it is known to use a cap with a top wall having an elliptical cross section in Figure 7. Gates et al do not specifically state why a cap with a top wall having an elliptical cross section is used, but it appears that it is used to provide a cap having a shape to allow for easier removal of the cap. It would have been obvious to one giving ordinary skill in the art at the time the invention was made to modify the system as taught by Wallace et al with a cap with a top wall having an elliptical cross section as taught by Gates et al, since such a modification would allow for easier removal of the cap.

Claim 8: Wallace et al disclose in Figure 1 the top wall including a textured surface.

Claim 9: Wallace et al disclose in Figure 1 the textured surface including a plurality of ribs.

Claim 11: Wallace et al disclose in Figure 4 the top surface including a plurality of ribs.

Claims 12 and 14: Wallace et al disclose in Figure 1 the means for connecting the tip cap being a helical thread.

3. Claims 15, 16, 22-24, 28, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al (D457,954) as modified by Gates et al (4,006,837) and further in view of Alchas (2002/0174864).

Claims 15 and 16: Wallace et al disclose in Figure 1 a syringe tip cap comprising a base having an upper and lower surface, and body having a top wall extending from the upper surface, and a shaft extending from the lower surface.

Wallace et al disclose the claimed invention except for the top wall having an elliptical cross section. Gates et al teach that it is known to use a cap with a top wall having an elliptical cross section in Figure 7. Gates et al do not specifically state why a cap with a top wall having an elliptical cross section is

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used, but it appears that it is used to provide a cap having a shape to allow for easier removal of the cap. It would have been obvious to one giving ordinary skill in the art at the time the invention was made to modify the system as taught by Wallace et al with a cap with a top wall having an elliptical cross section as taught by Gates et al, since such a modification would allow for easier removal of the cap.

Wallace et al as modified by Gates et al disclose the claimed invention except for the syringe cap being used with a syringe comprising a barrel. Alchas teaches in Figure 1 that it is known to use a syringe tip cap with a syringe comprising a barrel (25). Alchas does not explicitly state why a syringe cap is used with a syringe comprising a barrel, but it appears that it is used to keep the tip sterile before use. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Wallace et al as modified by Gates et al with the syringe cap being used with a syringe comprising a barrel, since such a modification would provide the system with a way to keep the tip sterile prior to use.

Claims 22 and 32: Wallace et al disclose in Figure 1 the top wall perimetrically disposed on the upper surface.

Claim 23: Wallace et al disclose in Figure 1 the exterior of the top wall including a textured surface.

Claim 24: Wallace et al disclose in Figure 1 the textured surface including a plurality of ribs.

Claims 28 and 31: Wallace et al disclose in Figure 1 the means for connecting the tip cap being a helical thread.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL J. HAYES  
PRIMARY EXAMINER



FIG. 1 → SYRINGE TIP CAP

